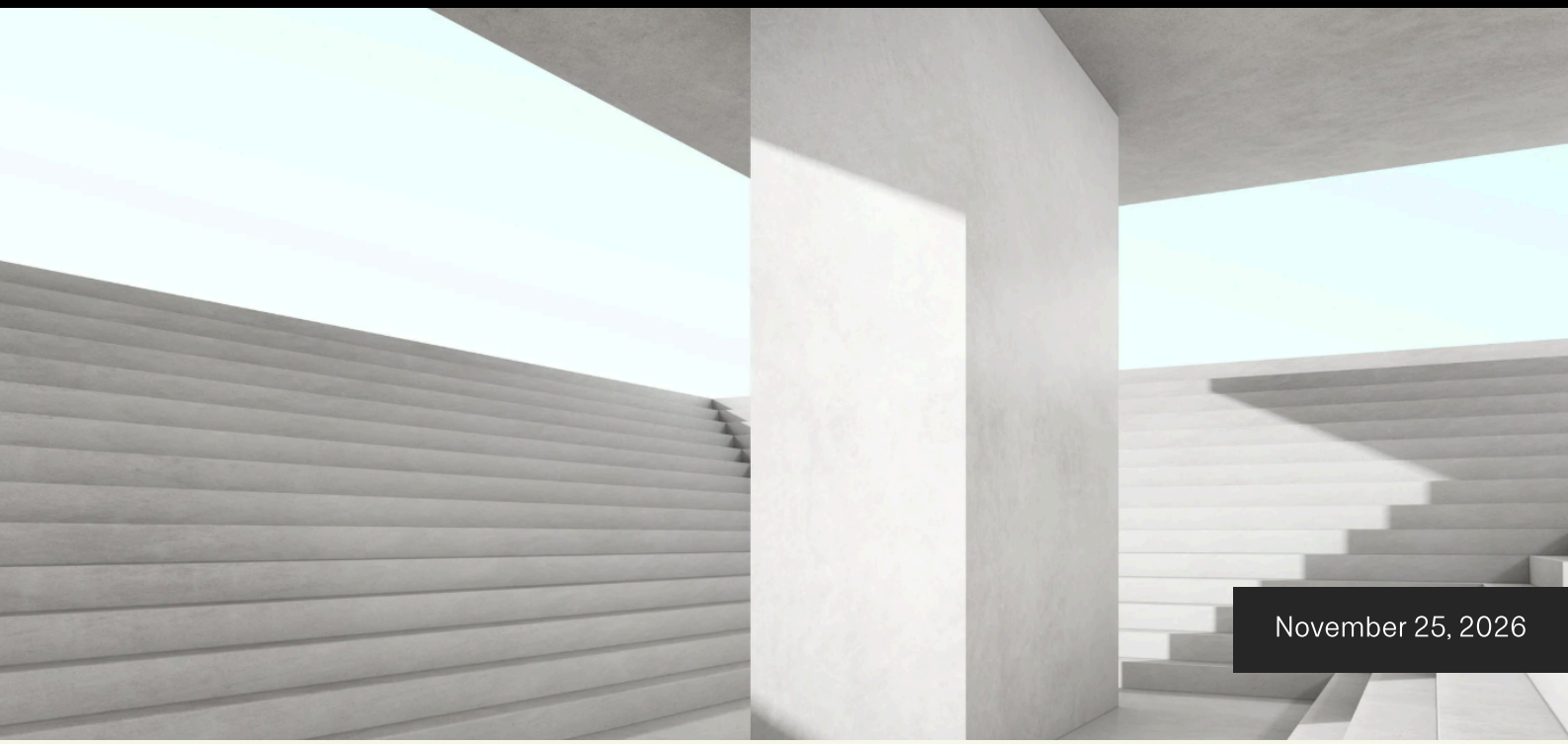
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COMPETITION AND ANTITRUST

NEWSFLASH

# Foreign Investment and National Security: Mexico Introduces Prior National-Security Review of Foreign Investments

On October 27, 2026, the Chamber of Deputies approved the Decree amending various provisions of the Foreign Investment Law (*Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Ley de Inversión Extranjera*, the "Decree" and the "LIE", respectively), which the Senate of the Republic had passed on September 30, 2026. The Decree was signed by the Federal Executive on November 13, 2026, and published in the Federal Official Gazette (*Diario Oficial de la Federación*, the "DOF") on November 19, 2026. It entered into force the following day, November 20, 2026.

Although the National Foreign Investment Commission (*Comisión Nacional de Inversiones Extranjeras*, the "CNIE") could already, under the LIE as in force before the Decree, block acquisitions by foreign investors on national-security grounds, that power had never operated as a fully articulated screening system. The Decree repeals former Article 30 and replaces it with a specific prior authorization procedure for national-security purposes. Below we summarize the key elements of the new framework and what they mean in practice for cross-border deals.

**A Broader CNIE**

The CNIE now has four new voting members: the Ministry of National Defense (*Secretaría de la Defensa Nacional*), the Ministry of the Navy (*Secretaría de Marina*), the Ministry of Security and Citizen Protection (*Secretaría de Seguridad y Protección Ciudadana*) and the Digital Transformation and Telecommunications Agency (*Agencia de Transformación Digital y Telecomunicaciones*). When national-security matters are discussed, the Office of the Attorney General of the Republic (*Fiscalía General de la República*), the National Intelligence Center (*Centro Nacional de Inteligencia*), the Tax Administration Service (*Servicio de Administración Tributaria*) and the Financial Intelligence Unit (*Unidad de Inteligencia Financiera*) attend as permanent guests, with voice but no vote. On these matters, abstentions are not allowed and decisions are taken by majority of the CNIE's members.

**The New Screening Procedure**

*When Is a Filing Required?*

A transaction will require a favorable resolution from the CNIE if three conditions are met: **(i)** the foreign investor would hold, directly or indirectly, over 49% of the capital stock of a Mexican company; **(ii)** at the time of filing, the Mexican company's total assets are above the amount the CNIE sets through a general resolution; and **(iii)** the Mexican company is engaged in any of the strategic activities listed below.

The activities covered by the Decree are: **(i)** strategic infrastructure, whether physical or virtual, such as energy, transport, healthcare, communications, mining, data processing or storage, digital systems, aerospace, defense and sensitive facilities, together with the land and real estate required for their operation; **(ii)** critical technologies and dual-use goods, such as artificial intelligence, robotics, semiconductors, cybersecurity, aerospace and defense technologies, energy storage, quantum and nuclear technologies, nanotechnology and biotechnology; **(iii)** the supply of essential inputs, notably energy and raw materials, as well as food security; **(iv)** access to, or the ability to control, sensitive information, especially personal data; and **(v)** any other similar activity or sector that the CNIE designates through a general resolution.

*Procedure and Timing*

The Mexican company and the foreign investor must file the application jointly with the CNIE's Technical Secretariat; the CNIE has 45 business days to rule on it. Note that positive administrative silence (*afirmativa ficta*) does not apply to national-security matters. If no resolution is issued, the Federal Administrative Procedure Law (*Ley Federal de Procedimiento Administrativo*), which applies supplementarily, makes negative administrative silence the default rule. In other words, expiry of the review period does not amount to clearance.

*Possible Outcomes*

Upon completing its review, the CNIE may: approve the transaction unconditionally, if it identifies no national-security risk; approve it subject to modifications that the parties themselves must make to address the risks identified; or deny it. Any approval, conditional or not, will come with obligations specific to the transaction, such as periodic reporting and verification that the parties comply with applicable Mexican law. The Decree does not limit the possible mitigation measures, so the CNIE will have broad latitude to design the conditions it deems appropriate in each case.

The Decree adds two new infringements: **(i)** transferring the equity interest to the foreign investor without a prior favorable resolution or despite a denial by the CNIE; and **(ii)** failing to comply with the mitigation measures imposed. Each may be sanctioned with a fine of 5,000 to 200,000 Units of Measure and Update (*Unidades de Medida y Actualización*, "UMA"), equivalent to roughly MXN$586,550 to MXN$23,462,000 (approximately USD$31,400 to USD$1.25 million) based on the 2026 UMA value. In certain cases, the CNIE may also order divestment; the foreign investor would then have 90 business days, extendable once for the same period, to dispose of the acquired assets.

*Voluntary Filings and Interaction with Other LIE Authorizations*

Where the foreign investor would exceed 49% but the target's assets are below the threshold, the parties may file voluntarily. The new procedure does not replace the authorizations required under Articles 8 and 9 of the LIE, which must still be assessed on their own terms.



*Filing Threshold and Other Open Issues*

The key piece still missing is the asset threshold that will trigger a mandatory filing. The CNIE has up to 180 calendar days counted from the day after the Decree's publication (i.e., until May 18, 2027) to publish in the DOF the general resolution setting that threshold. Under the transitory provisions, applications already pending when the Decree entered into force will continue to be handled under the rules in effect when they were filed. The Decree also leaves "national security" undefined for these purposes and, apart from adding national-security risks or threats to the Article 29 criteria the CNIE must consider, does not specify which factors it will weigh in its review. Procedural details, such as the information that must accompany an application, are left to the Regulations of the LIE (*Reglamento de la Ley de Inversión Extranjera*), which, to date, have not been amended to reflect the new regime.

**Key Takeaways for Cross-Border Transactions**

in light of the new regime, parties to transactions involving Mexican targets will have to: **(i)** assess early on whether the regime applies and coordinate the timeline with other required authorizations, such as merger control clearance from the National Antimonopoly Commission (*Comisión Nacional Antimonopolio*); **(ii)** identify the investor's ultimate beneficial owners and controlling persons, including through indirect structures; **(iii)** confirm in due diligence whether the target carries out any of the activities covered by the Decree; and **(iv)** expressly address the CNIE authorization in the transaction documents, for instance as a condition precedent to closing, together with cooperation covenants for the joint filing and an allocation of the risk of any mitigation measures imposed by the CNIE.

Should you require additional information, please contact Diego González Altamirano (dgonzalez@ritch.com.mx) or Octavio Olivo Villa (oolivo@ritch.com.mx), partners in the antitrust and competition practice of Ritch Mueller.

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